

LEONARD THOMPSON

IBLA 82-211

Decided March 11, 1982

Appeal from decision of the Wyoming State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease application WY 73535.

Affirmed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases:
Applications: Drawings

A simultaneous oil and gas lease application is properly rejected where it is dated prior to the commencement of the filing period, even though the application was assertedly signed during the filing period and inadvertently misdated, since 43 CFR 3112.2-1(c) requires that the date must reflect that the application was signed within the filing period, and since the applicant must bear the responsibility for any error in the dating of the application.

APPEARANCES: Leonard Thompson, pro se.

OPINION BY CHIEF ADMINISTRATIVE JUDGE PARRETTE

Leonard Thompson has appealed the decision of the Wyoming State Office, Bureau of Land Management (BLM), dated November 13, 1981, rejecting his simultaneous oil and gas lease application, WY 73535.

Thompson's application for parcel WY 3640 was drawn with first priority in BLM's December 1980 drawing. The application is dated October 29, 1980, 5 days prior to the start of the period for filing applications, which was November 3 to November 24, 1980, as prescribed by BLM in its notice of lands available for oil and gas leasing, in accordance with 43 CFR 3112.1-2. BLM's decision rejected Thompson's application because it was not dated within the filing period as required by 43 CFR 3112.2-1(c). Thompson appealed.

[1] Under 43 CFR 3112.2-1(c), 1/ a simultaneous oil and gas lease application must not only be dated at the time of signing, but the date on _____

1/ This section provides as follows:

the application must also reflect that it was signed within the filing period. An application, such as appellant's, that bears a date prior to the filing period violates these requirements and is properly rejected. 43 CFR 3112.6-1(a); 2/ Herbert W. Winston, 61 IBLA 199 (1981); Grace Grant, 58 IBLA 366 (1981). Strict compliance with the requirements of 43 CFR 3112 is enforced in order to protect the rights of other qualified applicants. Ballard E. Spencer Trust, Inc., 18 IBLA 25 (1974); aff'd, Ballard E. Spencer Trust, Inc. v. Morton, 544 F.2d 1067 (10th Cir. 1976).

In his statement of reasons, appellant explains that he actually signed the application on November 5, 1980, and that it was inadvertently incorrectly dated October 29, 1980, 3/ a week earlier. Even if appellant did, as he alleges, sign the application during the filing period and did date it (with an incorrect date) at the time of signing, he has not met the second of the requirements of 43 CFR 3112.2-1(c), since the date on the application must reflect that it was signed during the filing period. An applicant bears the responsibility for any error in the dating of the application, notwithstanding that the error may have been inadvertent and not representative of the actual date of signing. See H. L. McCarroll, 55 IBLA 215 (1981).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Bernard V. Parrette
Chief Administrative Judge

We concur:

James L. Burski
Administrative Judge

Bruce R. Harris
Administrative Judge

"(c) The name of only one citizen, association, corporation or municipality may appear as applicant on any application. The application shall be dated at the time of signing. The date shall reflect that the application was signed within the filing period."

2/ This section provides as follows:

"§ 3112.6-1 Rejection of an application.

Rejection is an adjudicatory process which follows selection. Filing fees for rejected filings are the property of the United States and shall not be returned.

"(a) Improper filing. Any application which is not filed in accordance with § 3112.2 of this title or any application which is unacceptable, as set forth in § 3112.5 of this title, shall be rejected."

3/ Appellant's statement actually says Nov. 5, 1981, and Oct. 29, 1981, but we presume he means 1980.

